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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/805,030 | 03/19/2004 | Samuel Thomas Scott III | MS1-1898US | 7931 |

22801 7590 02/19/2010

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| EXAMINER | |
|---|---|
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2425 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/19/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/805,030 | SCOTT ET AL. | |
| | Examiner | Art Unit | |
| | Ryan Stronczer | 2425 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *12 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-3 and 6-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 6-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-6, 13, 15, 17-22, 24-26, 31, 32, 34-36, 41, 44, 46, 47, 50, and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US Pat. No.: 6,157,377, hereinafter "Shah") and further in view of Plotnick et al. (Pub. No.: US 2002/0144262) and Blahut et al. (US Pat. No.: 5,532,735).**

As to claim 1, Shah, as cited in the previous Office Action, teaches the recited **"content server configured to distribute media content to a client device in response to a request from the client device"** as well as the recited **"valuation application configured to allocate a cost to the client device for the media content that is distributed."** As to the limitation that said valuation application is **"located on the content server,"** Fig. 3 of Shah teaches that server system 140 comprises a processing server and a billing server in communication with the client device. As to the limitation that the cost allocated by said valuation application is **"a direct function of a user viewing interaction based on a view control input received during a playback of the media content requested,"** Blahut, as analyzed below and cited in the previous Office Action, teaches that during playback of VOD content, the user is presented with a notification of upcoming advertisements at which point, *"The viewer may then be*

*prompted for a response as to whether the viewer desires to 'cancel' that set of advertisements. The ITV system would then react accordingly"* (col. 5/lines 32-35). A user selection issued during playback to cancel a requested set of advertisements is equivalent to the recited **"view control input received during a playback of the media content requested."** Further, it would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling of an advertisement taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not displaying the selected advertisement. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system VOD system of Shah with the advertising system of Blahut to enable a user to have more control over the amount of advertising inserted into VOD content and, consequently, the user's enjoyment thereof by controlling the number of advertising disruptions during said VOD content. One of ordinary skill in the art at the time of the invention would have recognized such a modification as a combination of known elements in the art that would have yielded predictable results.

As to the limitation that the content server is

> further configured to distribute an advertisement with the media content by prepending the advertisement to the media content before the media content and the advertisement are distributed to the client device,

In an analogous art, Fig. 7 of Plotnick teaches a server-side ad management system (AMS) for inserting targeted advertising into on-demand content. Plotnick teaches, *"In addition, the [server-side AMS] will work with prepend/postpend ad opportunities in a VoD environment. The server side AMS 700 tracks avails including duration and bandwidth of the avail, and uses a number of algorithms to determine if the ad can be placed in the avail"* [0147]. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the server-side AMS of Plotnick into the server system of Shah to allow the system operator to take advantage of additional revenue-generating opportunities presented by the ad insertion of Plotnick.

As to the limitation that said content server is further configured to receive

> a view control input from the client device after the media content and the advertisement have been distributed to the client device indicating how the media content is to be rendered,

Blahut, as cited in the previous Office Action, teaches an analogous VOD system that allows the user to select the level of advertising he wishes to receive in a VOD program when said program is ordered. Blahut further teaches that before said selected advertisements are displayed to the user, *"The viewer may then be prompted for a response as to whether the viewer desires to 'cancel' that set of advertisements. The ITV system would then react accordingly"* (col. 5/lines 32-35). A user selection issued during playback to cancel a requested set of advertisements is equivalent to the recited "view control input…indicating how the media content is to be rendered."

As to the limitation that the recited view control input comprises a **"navigation control to determine whether the advertisement is rendered for viewing,"** the

prompt taught by Blahut which either causes said advertisement to be displayed or cancels said advertisement and causes the next segment of VOD content to be displayed is equivalent to the recited "navigation control." As to the amended limitation that said navigation control comprises "one or more commands for fast-forward, skip-ahead, and jump," the recited prompt allowing a user to cancel an advertisement and resume viewing said content taught by Blahut is functionally equivalent to the recited skip-ahead command."

As to the limitation that said valuation application is further configured

> to adjust the cost allocated for the media content according to the view control input and how the media content was rendered on the client device

Blahut teaches that users select the level of advertising they wish to receive in a VOD program when they order said programming and that the fee for the VOD program is commensurate with the requested level of advertising. Blahut teaches that *"Typically, the more advertisements that are viewed, the less the subscriber's bill will be for that show"* (col.2/lines 21-22). Blahut further teaches that when a user chooses issues a view control input that causes said VOD content to be rendered without said selected advertisements, *"The ITV system would then react accordingly"* (col. 5/lines 32-35). It would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not

displaying the selected advertisement. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system VOD system of Shah with the advertising system of Blahut to enable a user to have more control over the amount of advertising inserted into VOD content and, consequently, the user's enjoyment thereof by controlling the number of advertising disruptions during said VOD content. One of ordinary skill in the art at the time of the invention would have recognized such a modification as a combination of known elements in the art that would have yielded predictable results. Similarly, one of ordinary skill in the art would have recognized that it would have been obvious to add a desired advertising level option to the order form taught by Fig. 5 of Shah to facilitate the initial selection of desired advertising taught by Blahut.

As to the limitation that **"when the view control input is the navigation control to advance past the advertisement, such that the advertisement is not rendered for viewing, then the valuation application increases the cost,"** the recited functionality is taught by Blahut as cited above. Blahut teaches that during payback the user is presented with a prompt allowing the user to choose to cancel advertising the user had previously agreed to view in exchange for a reduced fee for said VOD content. It would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the

user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not displaying the selected advertisement. As to the limitation that **"when the view control input is the navigation control to render the advertisement for viewing, then the valuation application decreases the cost,"** Blahut teaches that the user receives a reduced fee correlated to the number of advertisements viewed and that the user is given the option to cancel the upcoming advertisement before it is rendered. Examiner maintains that electing to not cancel the advertisements—and therefore proceed with displaying or rendering said advertisement—is cumulative with the recited command to render an advertisement for viewing. Blahut further teaches that *"[t]he rate* [charged to the user for received content] *could be adjusted up or down if a viewer…indicates that for a particular show or time frame, an amount of advertisements different that the 'default' monthly amount is desired"* (col. 5/61-65). Though Blahut teaches this adjustment in the context of a monthly subscription fee, one of ordinary skill in the art at the time of the invention would recognize that said cost adjustment could also be applied to individual VOD purchases, in a manner that would have yielded predictable results.

As to the limitation of

> an advertisement log located on the content server and configured to track if the advertisement is rendered for viewing by the client device based on the view control input received or a base time-line based on rendering both the media content and the advertisement on the client device

As analyzed above Blahut teaches that a user view control input to render said media content without the selected ads is transmitted back to the headend. Furthermore, Plotnick teaches that said server-side AMS includes *"viewing statistics*

*collection…ad server content and distribution management…interface to traffic and billing systems, and support of the ad sales process"* [0147]. Plotnick further teaches that, "*If the ads are displayed to the subscriber, the STB data server 1112 generates an ad play report 1160. The ad availability information 1158 and the ad play reports 1160 are formatted 1162 to create reports/logs 1164 that are forwarded to the T&B* [Traffic & Billing] *system 712"* [0169]. Examiner notes that the reports/logs 1164 are forwarded to T&B system 712 which located on the server 700. As Blahut's "reaction" to the cancelling of selected advertisements comprises updating the user's bill for the selected VOD program, it would have been obvious to one of ordinary skill in the art at the time of the invention that said reaction could also include updating the logs 1164 stored on the T&B system on server 700. Recording a notification that selected advertisements were cancelled is equivalent to the recited tracking if the advertisement was rendered based on the view control input.

As to claims 17, 21, 31, 44, 50, and 54, the rejection of claim 1 is incorporated herein. The digital video server comprising a valuation application recited in claim 17 is taught by the server of Shah combined with the Ad Management Server (AMS) of Plotnick and advertisement selection and billing method of Blahut, as analyzed above with respect to claim 1. The client device recited in claim 21 is taught by client device of Shah (Fig. 2), the equipment at user locations 222 of Blahut, and the user's set top box (STB) taught by Plotnick (see, e.g., Fig. 3). Examiner maintains that practicing the system of Shah in view of Plotnick and Blahut would have rendered obvious the method recited in claims 31 and 44. The recited computer-executable instructions (claims 31

and 44) and computer-readable media (claims 50 and 54) are inherent in the client device and server taught by Shah, Plotnick, and Blahut. As to the limitation that the cost allocated by said valuation application is **"a direct function of a user viewing interaction based on a view control input received during a playback of the media content requested,"** Blahut, as analyzed below and cited in the previous Office Action, teaches that during playback of VOD content, the user is presented with a notification of upcoming advertisements at which point, *"The viewer may then be prompted for a response as to whether the viewer desires to 'cancel' that set of advertisements. The ITV system would then react accordingly"* (col. 5/lines 32-35). A user selection issued during playback to cancel a requested set of advertisements is equivalent to the recited "view control input received during a playback of the media content requested." Further, it would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling of an advertisement taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not displaying the selected advertisement. As to the limitation that the recited view control input comprises a **"navigation control to determine whether the advertisement is rendered for viewing,"** the prompt taught by Blahut which either causes said advertisement to be displayed or cancels said advertisement and causes

the next segment of VOD content to be displayed is equivalent to the recited "navigation control."

As to claims 2, 22, and 32 Shah teaches the system of claim 1 as well as different prices corresponding to different properties of the video content (e.g., a HD version of a VOD program costs more than the standard-definition version of the same movie, etc) which is cumulative with the recited limitation that **"the content server is further configured to receive the view control input as a first command to select a first property of the media content being rendered and to receive the view control input as a second command to select a second property of the media content being rendered."** While Shah does not explicitly teach the limitation **"wherein the valuation application is further configured to decrease the cost according to a decrease in distribution cost of the media content having the first property content compared to the media content having the second property,"** the Examiner takes Official Notice that distributing upgraded media content (e.g., the audio or video quality upgrades taught by Fig. 5 of Shah) inherently causes the distributor to incur additional costs, as distributing high-definition video content requires more bandwidth than standard video requires. Thus, as stated above, it would have been obvious to one of ordinary skill in the art at the time of the invention that the reduced prices of for the lower quality video and/or audio options taught by Fig. 5 of Shah would be the result of reduced distribution costs.

As to claims 3, 17, 23, 33, 45, and 51, the rejection of claim 1 is incorporated herein. Blahut, as analyzed above, teaches that the cost is adjusted based on whether

the advertisement is rendered for viewing, as recited. As to the limitation that said cost is **"based on the view control input and a base time-line, the base time-line including a media content duration and an advertisement duration,"** Fig. 4 and col. 4 of Blahut teach that the VOD program and advertisements are broadcast to the user on virtual channels such that the user's requested level of advertising controls which virtual channels are broadcast to the user. Blahut also teaches that the length of the VOD program is increased by the length of the ads and that the anticipated length of the VOD session can be calculated adding by the length of the VOD program and the length of any selected advertising virtual channels ($t_{end+10}$, $t_{end+20}$ in Fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention that the system could determine if the user had viewed all selected advertisements based on the actual end time compared with the projected end time of the VOD session. As analyzed above, Blahut teaches that the system can increase the cost of the VOD program during playback if the user chooses to cancel advertising that he has previously agreed to view (and received a reduced rate predicated on said viewing). As to the limitation that the cost allocated by said valuation limitation is **"wherein the cost is a direct function of a user viewing interaction based on a view control input received during a playback of the media content requested,"** Blahut, as analyzed above, teaches that during playback of VOD content, the user is presented with a notification of upcoming advertisements at which point, *"The viewer may then be prompted for a response as to whether the viewer desires to 'cancel' that set of advertisements. The ITV system would then react accordingly"* (col. 5/lines 32-35). A user selection issued during

playback to cancel a requested set of advertisements is equivalent to the recited "view control input received during a playback of the media content requested." Further, it would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling of an advertisement taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not displaying the selected advertisement. As to the limitation that the recited view control input comprises a **"navigation control to determine whether the advertisement is rendered for viewing,"** the prompt taught by Blahut which either causes said advertisement to be displayed or cancels said advertisement and causes the next segment of VOD content to be displayed is equivalent to the recited "navigation control." As to the amended limitation that said navigation control comprises "one or more commands for fast-forward, skip-ahead, and jump," the recited prompt allowing a user to cancel an advertisement and resume viewing said content taught by Blahut is functionally equivalent to the recited skip-ahead command."

As to claims 18, 25, 34, 46, and 55, the rejection of claims 1 and 3 is incorporated herein. The Examiner notes that choosing to cancel a requested set of advertisements is functionally equivalent to the recited **"command to advance past the advertisement such that the advertisement is not rendered for viewing"** as canceling said advertisements would result in the content immediately following said

cancelled advertisements to be displayed. As to the recited increasing of the cost in response to said canceling of the advertisements, it would have been obvious to one of ordinary skill in the art at the time of the invention that the "reaction" to the cancelling taught by Blahut would be to increase the fee for the VOD program since Blahut teaches that the fee charged for the program is directly related to how many advertisements the user receives. By choosing to cancel an advertisement after paying a fee predicated on the viewing of said advertisement, the user is implicitly agreeing to reimburse the VOD provider for the lost revenue of not displaying the selected advertisement. As analyzed above, it would have been obvious to one of ordinary skill in the art at the time of the invention that a desired advertising level option could be added to the order form taught by Fig. 5 of Shah to facilitate the initial selection of desired advertising taught by Blahut. This would be beneficial to both the users who are receiving a reduce fee for the VOD program and to the advertisers who are able to reach more potential customers.

As to claim 6, the rejection of claim 1 is incorporated herein. The Examiner asserts that the act of ordering a VOD program with a desired level of advertising corresponding to a reduced fee, as taught by Blahut, is cumulative with the recited command **"to render both the advertisement and the media content for viewing"** of claim 6. As to the limitation that **"the valuation application is further configured to decrease the cost if the view control input is a command to render the advertisement for viewing,"** Blahut (cited above) teaches that the user receives a

reduced fee correlating with the number of advertisements the user agrees to view during the playback of said VOD program.

As to claims 13, 15, and 41, the recited logging is taught by Blahut and Plotnick as analyzed above with respect to claim 1. As to the limitation that the advertisement is rendered for viewing **"based on the view control input,"** Blahut, as cited above, teaches that the system prompts the user before selected ads distributed with the media content are rendered. Electing to proceed with said ads is equivalent to a view control input to render said ads for viewing.

As to claims 19-20, 24, 26, 35, 47, and 56, the rejection of claims 1 and 6 is incorporated herein. As to the limitation recited in claim 24 that **"wherein the cost allocated to the client device is adjusted to zero if the advertisement is rendered for viewing,"** though completely reducing the VOD fee is not explicitly disclosed in Blahut, it would have been obvious that a user could select to view enough advertisements that their bill for the show could be completely subsidized (see, e.g., Blahut, col. 2/lines 21-22).

**Claims 7, 9-12, 27, 28, 37-40, 43, 48, 49, 52, 53, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Plotnick and Blahut as applied to claim 1 above, and further in view of Rodriguez (US Pat. No.: 7,340,759)**

As to claim 7, Shah teaches the system of claim 1 but does not explicitly teach the recited **"in response to the view control input, distribute the media content as a second media stream to render the media content according to the view control**

**input, and wherein the valuation application is further configured to adjust the cost based on the second media stream."** Rodriguez teaches an analogous system for a Near Video On-Demand (NVOD) system that allows the user to implement various interactive, or "trick play," effects such as rewinding, fast-forwarding, etc. The presence of a plurality of video stream for the same program is inherent in a NVOD system. As to the recited limitation that **"the valuation application is further configured to adjust the cost based on the second media stream,"** Rodriguez teaches:

> For example, if the subscriber began viewing a program under the normal play option and later desired to rewind the program, the subscriber may be given the option of utilizing random-access options...This may be accomplished by providing random-access functionality using one or more auxiliary channels...In this option, the pricing system may assign a price criteria based on a per/minute (or second) usage fee, particularly if the on-demand random access is accomplished using a separate random access channel. (col. 27/lines 36-47)

Fig. 5 of Shah teaches that the user may choose to pay for interactive effects, which, in the context of a VOD or NVOD system, would include trick-play functionality such as that described by Rodriguez above. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the random-access functionality taught by Rodriguez into the system of Shah to enable customers who did not initially order interactive effects to enable such options during playback.

As to claims 9, 11, 27, 39, 40, 48, and 53 the rejection of claim 7 is incorporated herein. The recited **"command to replay a portion of the media content being rendered"** is cumulative with the rewinding taught by Rodriguez, as cited above.

As to claims 10, 12, 28, 37, 38, 49, and 52 the rejection of claim 7 is incorporated herein. As to the recited "command to advance the media content being

rendered," Rodriguez teaches that the system can provide users with random-access features including pause, rewind, and fast-forward (col. 24). The fast-forwarding taught by Rodriguez is equivalent to the recited "advance" command.

**Claims 8 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff in view of Plotnick and Blahut as applied to claim 1 and 31 above, and further in view of Stuckman et al. (Pub. No.: 2004/0111756).**

As to claims 8 and 36, Shah teaches the method of claim 1 but does not explicitly teach the recited, **"wherein the content server is further configured to receive the view control input as a command to end distribution of the media content to the client device, and wherein the valuation application is further configured to decrease the cost in response to a distribution end of the media content."** Stuckman teaches an analogous system of distributing video to a subscriber wherein the cost charged to the viewer is dependent on the amount of the program watched by the viewer. *"Further, the user may be billed based on how much of the video programs are viewed…The user may be billed for the Discovery Kids' show commensurate with three minutes of viewing time in contrast to viewing the whole show"* [0087]. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the billing method taught by Stuckman into the content distribution system taught by Shah to provide users of Shah's system the benefit of only having to pay for content actually viewed rather than for an entire program.

**Claims 14 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Blahut and Plotnick as applied to claims 1 and 31 above, and further in view of Eldering et al. (Pub. No.: US 2003/0149975).**

As to claims 14 and 42 Plotnick teaches logs/reports about ad play that are stored on the AMS server, but does not explicitly teach that **"the content server is further configured to...log whether the advertisement is rendered for viewing based on a duration that corresponds to rendering both the advertisement and the media content,"** as is recited. In analogous art, Eldering teaches a system for inserting and tracking advertisements in pre-recorded media. Eldering teaches that said tracking includes:

> The tracking of ads includes the ads that were received and whether the ads or the alternative ads were viewed. This information is transmitted back to the headend for advertiser billing purposes. The tracking of content tracks the amount of time that the content was viewed and whether the entire program is received...This transmission may include subscriber ID, content ID, viewing duration and reason code if content was not completely viewed. [0111]

Tracking whether the entire program was received and transmitting a viewing duration and reason code if the entire program was not received, as taught by Eldering, is cumulative with the recited **"duration that corresponds to rendering both the advertisement and the media content."** It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the advertisement logging taught by Eldering with the VOD system taught by Shah in view of Plotnick and Blahut to provide accurate billing information for advertisers. As analyzed w/r/t claim 3, Blahut teaches a method for determining the viewing time for a VOD program and selected advertisements distributed with said program.

**Claims 16 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff in view of in view of Plotnick, Blahut, and Rodriguez as applied to claim 7 above, and further in view of Yui et al. (US Pat. No.: 6,972,680).**

As to claim 16, Rodriguez, as cited above, teaches that the user can activate and pay for trick play functionality; col. 24 of Rodriguez explicitly teaches that the system supports pause functionality. Given that Rodriguez teaches an NVOD system, it is inherent that the user will receive a second stream upon resuming playback after pausing the program; however, the combined teachings of Shah and Rodriguez do not explicitly teach that the playback can be resumed at a second client device, as recited. Fig. 1 of Yui teaches a system in which a user viewing a broadcast television program in one location can move to another location and resume viewing that same program with "time shifted viewing" enabled. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the multi-room viewing capability of Yui with the system of Shah and Rodriguez to allow users to finish watching a program in a different location from where they started. This would have been desirable as users often might wish to be able to start watching a program in one location (e.g., the living room of their house) and resume and/or finish watching that program in another location (e.g., their bedroom).

***Response to Arguments***

Applicant's arguments filed 12 November 2009 have been fully considered but they are not persuasive. With respect to claims 1, 17, 21, 31, 44, 50, and 54, Applicant alleges that that the prior art cited in the previous Office Action fails to teach the amended limitation that the recited view control input comprises a **"navigation control to determine whether the advertisement is rendered for viewing."** Specifically, Applicant alleges:

> ...although Blahut is directed to a interactive television systems providing for a viewer to select desired level of advertisements with which they are provided (Blahut, Abstract), there is no teaching or suggestion therein of the navigation control comprising one or more commands for fast-forward, skip-ahead and jump as recited in the amended claims...the Office's cited portion to Blahut purporting to teach "navigation control," as recited in the independent claims is incorrect (Office Action, pg. 5 citing Blahut at col. 5, lines 32-35). Instead, the cited portion describes a notification to the viewer of upcoming advertisements in the form of a prompt seeking a response from the viewer as to whether the viewer desires to "cancel" the set of upcoming advertisements (Blahut, col. 5, lines 30-35). Applicant respectfully submits that Blahut completely lacks navigation controls comprising one more commands for fast-forward, skip-ahead and jump but is rather limited to responding to system prompts to either cancel or view the advertisements. (Remarks, pg. 25-26)

The Examiner respectfully disagrees. The prompt taught by Blahut which either causes said advertisement to be displayed or cancels said advertisement and causes the next segment of VOD content to be displayed is functionally equivalent to the recited "navigation control." Further, a navigation control comprising a prompt that allows a user to cancel an advertisement and resume viewing said content, as taught by Blahut is functionally equivalent to the recited skip-ahead command.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Stronczer whose telephone number is (571) 270-3756. The examiner can normally be reached on 7:30 AM - 5:00 PM (EDT), Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan Stronczer/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425